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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CALVIN ROUSE,

11 Plaintiff,

12 v.

13 DOUG WADDINGTON *et al.*,

14 Defendants.

Case No. C06-5183RJB

ORDER DENYING MOTION TO
ALTER OR AMEND THE JUDGMENT

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16 This matter comes before the Court on the Plaintiff's Motion to Alter or Amend the
17 Judgment. Dkt. 97. The Court has considered the motion and the file herein.

18 Originally filed in February of 2006, Plaintiff brought this civil rights action pursuant to 42
19 U.S.C. § 1983. Dkt. 6-3. The factual and procedural history is contained in this Court's Order
20 Adopting Report and Recommendation (Dkt. 95) and is adopted here by reference.

21 Plaintiff moves the Court to alter or amend the judgment pursuant to Fed R. Civ. P. 59 (e)
22 because he alleges he was given little access to the prison law library and there was a shortage of law
23 librarians able to help him with his case. Dkt. 97.

24 It is appropriate to alter or amend a judgment under Fed. R. Civ. P. 59 (e) if "(1) the district
25 court is presented with newly discovered evidence, (2) the district court committed clear error or
26 made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling
27 law." *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir.2001).


28 Plaintiff fails to provide a sufficient basis for this Court to alter or amend the judgement. He

1 does not present any newly discovered evidence, and he makes no showing that the Court committed
2 clear error or made a decision that was manifestly unjust. Plaintiff makes no showing that there was
3 an intervening change in controlling law. Plaintiff's allegation that his access to the courts was
4 impacted here is not a basis to alter or amend the judgment because he makes no showing of a
5 specific instance "actual injury." *See Sands v. Lewis*, 886 F.2d 1166, 1171 (9th Cir. 1998).
6 Plaintiff's motion should be denied.

7 Therefore, it is **ORDERED** that:

- 8 (1) Plaintiff's Motion to Alter or Amend the Judgment (Dkt. 97) is **DENIED**;
9 (2) Clerk is directed to send copies of this Order to Plaintiff, and to the Hon. J. Kelley
10 Arnold.

11 DATED this 19th day of February, 2009.

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13 ROBERT J. BRYAN
14 United States District Judge
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